

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 27, 2002

DIVISION ONE

B123107 Milton Barton, et. al. (Not for Publication)
 v.
 Princess Cruises, Inc.

The judgment is reversed. Plaintiffs are to recover their costs on appeal.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

B156506 Beryl Ford McKenzie (Not for Publication)
 v.
 James Hawkins McKenzie

The judgment is affirmed. Respondent(s) to recover costs.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

B146318 Captain Dave's Marine Services, Inc. (Not for Publication)
 v.
 Angel Grove Productions, Inc., et. al.

The judgment is affirmed. Respondent(s) to recover costs.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

November 27, 2002 (Continued)

DIVISION ONE (Continued)

B148230/ People v. Lloyd Fernandez Avery (Not for Publication)
B161941 In re Lloyd Fernandez Avery on Habeas Corpus

Defendant's murder convictions and the special circumstance finding are reversed provisionally. The trial court is directed to hold a hearing pursuant to Evidence Code section 402 in order to determine whether Branch's statement possesses sufficient indicia of reliability to be admissible in conformity with section 1370. If the trial court determines that the statement is admissible, the reversal of defendant's murder convictions and the multiple murder special circumstances stands. If the court determines otherwise, the murder convictions and special circumstances finding are affirmed. In all other respects, the judgment is affirmed.

Defendant's petition for writ of habeas corpus is denied without prejudice.

Spencer, P.J.

I concur: Mallano, J.

I concur in judgment only: Vogel (Miriam A.), J.

B154202 Bruce Eicher, Inc., et al. (Not for Publication)
v.
Michael Entel, et al.,
Marvin Gross, et al.

The judgment is reversed. Appellant(s) to recover costs.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

DIVISION TWO

B152939 People
v.
Lewis

(Not for Publication)

The 10-year term imposed for kidnapping in count 4 is stricken, the findings entered upon appellant's admissions of the prior conviction allegations pursuant to the three strikes law and section 667.5, subdivision (b) are reversed, and the sentence is vacated. The matter is remanded for proceedings limited to the issue of the truth of the prior convictions alleged in the information and for resentencing, including the selection of a new base term for assault by means likely to produce great bodily injury. In all other respects, the judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B151463 People (Not for Publication)
v.
Edie

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B157228 People (Not for Publication)
v.
Alvarez

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

November 27, 2002 (Continued)

DIVISION TWO (Continued)

B151352 West Hills Condominium Association, Inc. (Not for Publication)
 v.
 Crubaugh

The judgment is modified to reflect a deduction of \$18,000. It is otherwise affirmed. Costs are awarded to respondents on appeal.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

B154979 Madrigal (Not for Publication)
 v.
 Inland Valley Volunteer Resource Center

The judgment is reversed. Madrigal is entitled to costs on appeal.

Boren, P.J.

We concur: Nott, J.
 Ashmann-Gerst, J.

B145458 Condon (Not for Publication)
 v.
 Law Offices of Steven L. Mazza

The judgment is reversed, and the case is remanded with directions to enter judgment in favor of Mazza on the malicious prosecution claim.
Respondent to bear costs of appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

November 27, 2002 (Continued)

DIVISION TWO (Continued)

B153439 Brauner (Not for Publication)
v.
Gauthier-Washington, et al.

The judgment is affirmed. Each party to bear their own costs.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B149675 People (Not for Publication)
v.
Mazurette

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

B151769 W.J. Gallagher & Company, Inc.
v.
Nohre, et al.

Filed order denying petition for rehearing.

DIVISION FOUR

B156122 People (Not for Publication)
v.
Bark

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

November 27, 2002 (Continued)

DIVISION FOUR (Continued)

B158070 People (Not for Publication)
v.
Braley

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B156282 People (Not for Publication)
v.
Mullan

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

DIVISION SIX

B162462 Merida (Not for Publication)
v.
Ventura County Superior Court
(Kindred Nursing Centers West, et al., r.p.i.)

The alternative writ, having served its purpose, is dissolved. Let a peremptory writ of mandate issue directing respondent superior court to vacate its order of October 11, 2002, denying Merida's motion to amend and its order of October 22, 2002, rejecting Merida's peremptory challenge pursuant to section 170.6. In accordance with the views expressed in this opinion, the trial court shall enter a new and different order regarding the peremptory challenge and shall conduct further proceedings regarding the section 425.13 motion. The temporary stay previously ordered by this court is vacated. Merida is awarded her costs on appeal.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

November 27, 2002 (Continued)

DIVISION SIX (Continued)

B147327 White (Certified for Publication)
v.
Lieberman

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)